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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/526,379	03/16/2000	Lecon Woo	1417Y P 418	2449
7590	09/05/2006			EXAMINER
Mark J Buonaiuto Esq Baxter International Inc Law Department One Baxter Parkway Df2 2E Deerfield, IL 60015			MIGGINS, MICHAEL C	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 09/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/526,379	WOO ET AL.	
	Examiner	Art Unit	
	Michael C. Miggins	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 June 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11, 13-33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-11, 13-33, 35-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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DETAILED ACTION

REJECTIONS WITHDRAWN

1. All of the 103(a) rejections set forth in the non-final rejection of 3/6/06, pages 2-4, paragraphs 2-3 are withdrawn.

REJECTIONS REPEATED

2. There are no rejections repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments filed 6/6/06 have been considered but are moot in view of the new grounds for rejection set forth below.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11, 13-33 and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ding et al. (US 6297322).

Ding discloses a flowable materials container comprising a first and second sidewall sealed together (column 6, lines 25-34 and Fig. 1) wherein at least one wall is a

film having at least one layer of a blend composed solely of a first component and a second component, the first component selected from the group consisting of a single ethylene and alpha-olefin copolymer containing more ethylene than alpha-olefin and having a density of less than about 0.915 g/cc, and ionomers, the first component present in an amount from about 99 to about 55% by weight of the blend, the second component present in an amount by weight of the from about 45 to 1% by weight and selected from the group consisting of propylene containing polymers, polybutene polymers, polymethylpentene polymers, cyclic olefin containing polymers and bridged polycyclic hydrocarbon polymers (column 4, lines 1-17, column 5, lines 1-29, ionomers and ethylene/alpha-olefin copolymers are taught), pealable seals (column 13, lines 23-30) (applies to instant claims 1-11, 13-33 and 35-41).

Applicant's recited concentration for individual components and properties for the polymer blends are obvious since finding the workable or optimum value or range for a result effective variable is obvious (MPEP 2144), especially since Ding specifically discusses transparency, haze values, flexibility and sealability (column 11, line 25 through column 12, line 39, column 14, line 25 through column 15, line 40). It would have been obvious to have provided applicant's claimed properties in order to provide improved transparency, flexibility and/or rigidity and sealability (applies to instant claims 1-11, 13-33 and 35-41).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Miggins
Primary Examiner
Art Unit 1772



MCM
February 21, 2006